

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Bowen Analyst: Gloria McConnell Bill Number: SB 157
Related Bills: See Legislative History Telephone: 845-4336 Amended Date: 07/02/03
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Streamlined Sales Tax Project/Board Of Governance/Includes One Member Of Franchise Tax Board

SUMMARY

Under this bill, one member of the Franchise Tax Board (FTB) would serve on the Board of Governance (Board), which would represent California on the multi-state sales and use tax project.

SUMMARY OF AMENDMENTS

These July 2, 2003, amendments identify the members of the Board.

This is FTB's first analysis of this bill.

PURPOSE OF THE BILL

According to the author's office, the intent of this bill is to enable California to have a voice in the development of the multi-state sales and use tax project.

EFFECTIVE/OPERATIVE DATE

This bill is effective and operative January 1, 2004.

POSITION

Pending.

ANALYSIS

STATE LAW

The Board of Equalization (BOE) administers the Sales and Use Tax law.

The FTB administers the Personal Income and Corporation Tax Laws.

Unless otherwise provided, actions of BOE and FTB must take place in meetings open to the public, which would include the selection of a BOE and FTB member for purposes of serving on the Board created by this bill.

Board Position:

| | | |
|-----------------------------|------------------------------|---|
| <input type="checkbox"/> S | <input type="checkbox"/> NA | <input type="checkbox"/> NP |
| <input type="checkbox"/> SA | <input type="checkbox"/> O | <input type="checkbox"/> NAR |
| <input type="checkbox"/> N | <input type="checkbox"/> OUA | <input checked="" type="checkbox"/> PENDING |

Department Director

Date

Gerald H. Goldberg

7/16/03

CURRENT PRACTICE

BOE voted on March 26, 2003, to be a non-voting participant in the multi-state sales and use tax project (Streamlined Sales Tax Project (SSTP)).

THIS BILL

This bill would create the California Streamlined Sales Tax Project, under the Sales and Use Tax Law. This bill would allow California to be a voting participant of the multi-state SSTP, in accordance with its Streamlined Sales and Use Tax Agreement, as described under "Background."

For purposes of this chapter, definitions are provided as follows:

"Agreement" means the Streamlined Sales and Used Tax Agreement.

"Board" means the board of governance, as defined in the act, or board's designee.

"Certified automated system" means software certified jointly by the states that are signatories to the agreement to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit to the appropriate state, and maintain a record of the transaction.

"Purchaser" means any person to whom a sale of tangible personal property is made or to whom a service is provided.

The Board would be created and would consist of:

- One member of the Senate chosen by the Senate Committee on Rules,
- One member of the Assembly chosen by the Speaker of the Assembly,
- One member of the State BOE,
- One member of the FTB, and
- One member of the Governor's Department of Finance.

The Board would be authorized to represent California in all meetings with those states that are also authorized by statute to enter into the agreement. The Board would be required to vote on behalf of California and to represent the position of California in all matters relating to the adoption of or amendments to the agreement. Before the Board could enter into the agreement, each state must abide by certain requirements of the agreement, as specified in the bill.

IMPLEMENTATION CONSIDERATIONS

No implementation considerations are identified.

TECHNICAL CONSIDERATIONS

- “Certified automated system” and “purchaser” are defined, but are not used in this bill.
- In the definition of “board”:
 1. “board of governance” should be capitalized.
 2. “act” should be changed to “chapter” since the word “Act” has been eliminated from the common title “Streamlined Sales Tax Project.”
- Conceivably a BOE or FTB member could serve on the Board of Governance before being “officially” selected at a open meeting. In this event, it is uncertain whether any votes that may be cast would be subject to challenge.
- There is the potential for multiple representations by members of the Board of Governance:
 1. The Controller is a member of both the FTB and BOE, therefore, could be the member selected by both FTB and BOE for the Board of Governance.
 2. The Director of the Department of Finance is a member of the FTB and could be selected by the FTB for the Board of Governance, but that person or another person from the Department of Finance also would be a member of the Board of Governance.
- It is unclear whether the Governor’s Department of Finance has “members,” one of which would serve on the Board of Governance under this bill.

LEGISLATIVE HISTORY

In 2000, SB 1949 (Costa, et al.), which would have directed the Governor or his representative to participate in discussions with other states on sales and use tax simplification and uniformity, was vetoed by the Governor as unnecessary, because California already participates in other national forums where sale and use tax issues are discussed. The forums identified were the Multi-state Tax Commission, the National Governor’s Association, and the Advisory Commission on Electronic Commerce.

PROGRAM BACKGROUND

The multi-state SSTP began in early 2000 as an initiative by state governments with input from local governments and the private sector to simplify and modernize sales and use tax administration for all types of commerce. This simplified system is intended to incorporate uniform definitions within tax bases, simplified audit and administrative procedures, and emerging technologies to substantially reduce the burdens of tax collection. The focus of the project is to improve sales and use tax collection and administration systems for all involved: retailers, remote sellers, and government.

There are currently 39 states participating in the multi-state SSTP, of which three are non-voting participants. To be a voting multi-state SSTP participant, the state must support the multi-state SSTP mission, and the state must commit to the participation through legislation or other high level endorsement.

OTHER STATES' INFORMATION

The states reviewed were *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. *Florida, Illinois, Massachusetts, Minnesota and Michigan* participates in the multi-state SSTP. *New York* is in the process of enacting legislation enabling it to participate in the multi-state SSTP.

FISCAL IMPACT

Departmental Costs

This bill would not affect departmental costs.

ECONOMIC IMPACT

Revenue Estimate

This bill would have no identifiable revenue impact under the Personal Income and Corporation Tax Laws. Staff defers to the BOE on the revenue impact to sales and use tax.

LEGISLATIVE STAFF CONTACT

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